REMARKS

Claims 1-16 are pending. New claim 17 is added. Applicant expresses appreciation to the Examiner for the indication of allowable subject matter. As suggested by the Examiner, Claim 4 is rewritten in independent form including the limitations of the base claim. Claims 2-3 and 6 are amended to depend from claim 4.

The USPTO has objected to the drawings for failing to show a claimed element and for poor line quality. Replacement drawings are provided herewith, obviating the objections.

Claims 1 and 13 stand rejected under 35 U.S.C. §102(b) as being anticipated by Altman (US Patent No. 6,296,630). Claim 1 is directed to a medical fluid delivery system including an implantable medical lead and "a fluid delivery device adapted to pass through the lead proximal port, through the lead lumen and through the lead distal port, the device including a tissue piercing distal tip and a pre-formed curve in proximity to the distal tip such that the tip is directed away from the fixation element after passing beyond the distal port of the lead." Contrary to the Examiner's assertion, Altman fails to teach, among other things, a fluid delivery device adapted to pass through the lead proximal port, through the lead lumen and through the lead distal port.

Altman discloses an implantable cardiac drug delivery system. The Examiner references, in particular, Figure 1D, which shows a penetrating structure 45 composed of two elements, a fixation helix 50 and a needle 55. The needle 55 is connected to the tube 35 for drug delivery. The needle 55 appears to be fixed at the distal end of the catheter. As such, Altman fails to teach or suggest a fluid delivery device adapted to pass through a lead proximal port, a lead lumen and a lead distal port, as stated in claim 1. Applicant respectfully submits the rejection is improper and should be withdrawn.

Claims 1 and 2 stand rejected under 35 U.S.C. §102(b) as being anticipated by Altman (US 6102887). Altman discloses a catheter system for injecting therapeutic agents. Altman fails to teach, among other things, a fluid delivery device adapted to pass through a lead proximal port, a lead lumen and a lead distal port, as stated in claim 1. In Figures 8A through 8C, a penetrating needle 865 communicates with a drug delivery tube and is mounted on a needle base 835 which is slidably mounted within the catheter. The penetrating needle advances axially out the distal end of the catheter body but does not pass through a lead proximal port and lead lumen. As such, Applicant respectfully asserts that the rejection is improper and should be withdrawn.

Claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Lederman (US 2003/0032936 A1). Lederman discloses a catheter for delivering a therapeutic agent having a delivery lumen communicating with a side port adjacent a distal end of the catheter. Pending claim 1 includes "a distal fixation element adapted to secure the lead to a tissue site". Lederman fails to teach, among other things, a distal fixation element. The Examiner has stated that the pigtail 42 performs the function of a "fixation element." Lederman describes the function of the pigtail 42 in paragraph 38 as "providing a capture for catheter 10 as it slides along guidewire 24", "reduces the risk of guide wire 24 puncturing or damaging tissue", and "to assist manipulation of the catheter into apposition with the target structure". Lederman fails to teach or suggest the use of pigtail 42, or any other disclosed structure, as a fixation element. Accordingly, Applicant respectfully submits that the rejection is improper and should be withdrawn.

Applicant respectfully asserts that the present claims are in condition for allowance. Withdrawal of the instant rejections and issuance of a Notice of Allowance is respectfully requested. The Commissioner is authorized to charge any deficiencies and credit any overpayments to Deposit Account No. 13-2546.

Respectfully submitted,

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Date

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